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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/803,103

03/18/2004

Paivi Valve

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7590

06/17/2008

SQUIRE, SANDERS & DEMPSEY L.L.P.

8000 TOWERS CRESCENT DRIVE

14TH FLOOR

VIENNA, VA 22182-6212

EXAMINER

HAN, QI

ART UNIT

PAPER NUMBER

2626

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/803,103	<b>Applicant(s)</b> VALVE ET AL.	
	<b>Examiner</b> QI HAN	<b>Art Unit</b> 2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 19-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 19-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/03/2008 &amp; 03/19/2008</u> .                             | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Information Disclosure Statement***

3. The references listed in the Information Disclosure Statement submitted on 03/03/2008 and 03/19/2008 have been considered by the examiner (see attached PTO-1449).

#### ***Response to Amendment***

4. This communication is responsive to the applicant's amendment dated 03/03/2008. The applicant(s) amended claims 1-17 and 19-22, cancelled claim 18, and added new claims 23-26 (see the amendment: pages 3-18).

The examiner withdraws the previous disclosure objection a and b, because the applicant amended the corresponding contents of specification. However, for objection a, it should be pointed out that it would be inconsistent, if without replacing "frame" with "subframe" (see Remarks: page 19, p(aragraph)4).

The examiner withdraws the disclosure objection regarding claims 18-19, because the applicant cancelled the corresponding claim or amended the corresponding content relating the claim.

The examiner withdraws the previous rejection of claims 18-19 under 35 USC 112 2<sup>nd</sup>, because the applicant cancelled or amended the corresponding claims.

The examiner withdraws the previous rejection of claim 18 under 35 USC 112 1<sup>st</sup>, because the applicant cancelled the claim.

### ***Response to Arguments***

Applicant's arguments filed on 03/03/2008 with respect to the claim rejection under 35 USC 103, have been fully considered but they are not persuasive.

5. In response to applicant's arguments that "the Office Action acknowledge that Cezanne does not disclose "determining a current second parameter value from the index further corresponding to the second parameter... thus, it is respectfully requested the rejection of claims 1, 15, and 22 be withdrawn", "Cezanne does not disclose or suggest "determining a new index value..." as claimed in claims 1, 7, 15-17, 22, 23, and 26", "Cezanne does not disclose or suggest "determining a current background noise parameter index value..." as claimed in claims 13 and 14" (see Remarks: page 30, paragraphs 2-4), "Erikson does not disclose "determining a new index value..., such that..." as recited in claims 1, 7, 17, 24 and 26" and "does not disclose or suggest "determining a current background noise parameter index value..." as claimed in claims 2, 13, 14, 20-22, and 24-26" (see Remarks: page 31, paragraphs 2-3), the examiner

respectfully disagrees with applicant's arguments and has a different view of the prior art teachings and claim interpretations.

It is noted that, in response to applicant's arguments against the references individually as recited above, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, all claim rejections are based on the teachings of combined references (see detail in the corresponding claim rejection).

Further, it should be point out that the applicant twisted the examiner's language in the rejection saying that "Cezanne does not **expressly** disclose...", which means that some teachings might be inherited in the teachings. For example, for claims 1, 15 and 22, Cezanne discloses 'AMR codec' described in '3GPP TS26.090' that inherently use a joint quantization vector (corresponding to the index) associating with two parameters, which is properly combined with other prior art teachings for rejecting the claimed/argued limitation in claims 1, 15 and 22.

Furthermore, it is noted that, in response to applicant's arguments recited above, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). For example, for claim 1, apart from Cezanne's disclosure (see detail in the rejection), ERIKSSON discloses 'noise suppression' comprising 'modification of parameters in the coded bit-stream' (p33-p57) using 'fixed codebook gain',

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‘gain correction factor (also corresponding to first parameter value)’, ‘gain factor modified’, finding ‘the index of the codeword closest (match) to  $\gamma^{\text{new}}$  (i.e. new gain correction factor) and overwrite (replace) the original fixed codebook gain correction index’, and further teaches that ‘in some coding modes with lower bit-rate they are vector quantized’ and ‘the adaptive codebook gain (second parameter) will also be modified (determined with new value) by the noise suppression’ (p47-p57), which read on the argued/claimed limitation of “determining a new index...” as recited for claims 1, 7, 17, 24 and 26. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to recognize that the ARM method described in 3GPP TS 26.090 inherently uses a jointly quantized vector (corresponding to the index) associating with the correction factor and adaptive codebook gain (second parameter value) for lower bit-rate coding (evidenced by IDS: 3GPP TS 26.090, page 39, last paragraph), and to modify CEZANNE by providing modifying the adaptive codebook gain with the first parameter value (such as the correction factor) associated the index for the vector quantization, as suggested by ERIKSSON, for the purpose (motivation) of improving speech quality for system with transcoder free operation and/or for some coding modes with lower bit-rate (ERIKSSON: p4 and p57).

6. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., “Eriksson does not deal with determining a new index value by minimizing an error between ...”, see Remarks: page 31, last paragraph to page 32, paragraph 3) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

7. In response to applicant's arguments regarding claims 2, 4, 6, 8, 10, 12-16 and 20 that “neither from Cezanne nor from Eriksson or from AAPA in the specification, it is derivable to determine a background noise parameter index value according to a characteristic of the audio signal” and “the claims are considered to be not obvious from Cezanne and Eriksson” (Remarks: page 32, last paragraph to page 33, paragraph 4), the examiner respectfully disagrees with applicant’s arguments and has a different view of the prior art teachings and claim interpretations.

It is noted that, as stated in the rejection, CEZANNE in view of ERIKSSON disclose ‘noise compensation gain (background noise parameter value) is computed (determined)...based on the noise level estimate’ and using ‘fixed codebook gain indices’ (CEZANNE: p38 and p40; ERIKSSON: p56), but CEZANNE in view of ERIKSSON does not **expressly** disclose the background noise parameter value being an **index** value (current or new). However, the feature is well known in the art as evidenced by ADMISSION who using ‘average background noise information...described in 3GPP TS 26.092...’ and ‘frame energy’ calculation and quantization with ‘index’ (see specification: p59-p64). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify CEZANNE in view of ERIKSSON by providing the background noise level with associated quantization index, as taught by ADMISSION, for the purpose (motivation) of the correct operation of background noise evaluation, noise parameter encoding/decoding and comfort noise generation for the AMR

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speech codec system, and/or improving/enhancing speech quality for the system with transcoder free operation (CEZANNE: p6; ERIKSSON, p7).

Further, it should be pointed out that the applicant failed to response the rejection based on the prior art teachings of combined references, because the applicant lacked analysis whether or not the rejection with combine teachings of the references could be read on the claim in light of the specification, instead, he try to explain how the claim is **read into** the specification of the application (see Remarks: page 33, paragraph 2).

Finally, it is noted again that the applicant's argument against the references individually as recited above is not proper, because one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, the rejection for the argued/claimed limitations is based on all teachings of the three combined references together with proper obviousness/motivation analysis (see above or the corresponding rejection), not based on just one individual prior art teaching(s) or teachings of fewer combined references, as argued.

8. Regarding the rest of arguments (or claims) (see Remarks: page 33, last paragraph to page 34, paragraph 5), the response is based on the same reason(s) described above, because the arguments are based on the previous argued issue(s).

### ***Specification and Drawing***

9. The disclosure is objected to because of the following:

(1) Regarding the newly amended paragraph [0026] (see the amendment: page 2, last paragraph), the referenced paragraph number is incorrect. Appropriate correction is required. It is noted since the amendment has been entered, the correction in next amendment should include the original paragraphs [0026].

(2) Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

It is noted that the applicant refused to admit the Fig.1 being "prior art". However, one of skill in the art (the applicant is supposed to have at list that skill level) would readily know the Fig. Being prior at, as evidence by the IDS (see 3GPP TS 26.090, page52, Figure 2) submitted by applicant himself.

(3) The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "parameter value determiner", "adjuster", "index value determiner", "detector", "determiner", "replacer" (in claims 7-12 and 25-26) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing

sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 101***

10. Claims 17 and 19-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claims 17 and 19-22, they claim “a computer program”, which is directed to nonstatutory subject matter under 35 USC 101. It is noted that the computer programs (codes) as computer listings per se, i.e. the descriptions or expressions of the program, are not physical “thing”; and since a computer program is merely a set of instructions capable of being executed by a computer, the computer program (code) itself is not a process either. Therefore, the claims, as whole, are directed to non-statutory subject matter.

11. To expedite a complete examination of the instant application the claims rejection under 35 U.S.C 101 (nonstatutory) above are further rejected as set forth below in anticipation of applicant amending these claims to place them within the four statutory categories of invention.

***Claim Rejections - 35 USC § 112***

12. Claims 17 and 19-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 17 and 19-22, the amended claims including a limitation of “a computer program embodied on a computer-readable medium **comprising a program code configured to control a processor to execute a process** of...”, introduce new subject matter, which is not specifically described in the original specification/application. The applicant failed to point out where the limitation is specifically referenced from the specification, and nowhere in the specification can be found for this limitation.

***Claim Rejections - 35 USC § 103***

13. Claims 1, 3, 5, 7, 9, 11, 17 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over CEZANNE et al. (US 2004/-243404 A1) hereinafter referenced as CEZANNE in view of ERIKSSON et al. (US 2002/0184010 A1) hereinafter referenced as ERIKSSON.

As per **claim 1**, CEZANNE discloses ‘method and apparatus for improving voice quality of encoded speech signals in a network’ (title), comprising:

“determining a current first parameter value from an index corresponding to a first parameter” (p(paragraph)9, ‘voice quality enhancements such as noise compensation, noise reduction, automatic level control, and acoustic echo control’ performed by modifying selected encoded speech parameters including ‘excitation gain or the vocal tract parameters’; p32-p33 and Table 1, ‘fixed and adaptive codebook parameters (include first parameter)’, ‘fixed codebook index’, ‘fixed codebook gain’; p39, ‘fixed codebook excitation gain (current first parameter value) is extracted (determined)’),

"wherein a coded audio signal comprises indices which represent audio signal parameters which comprise at least a first parameter representing a first characteristic of the audio signal and a second parameter” (31-p33 and Table 1, ‘the standard applicable to’ the ‘adaptive multi-rate (AMR) codec’ described in ‘3GPP TS 26.090’ in which the encoded signals includes the indices, which read on the claimed limitation);

“adjusting the current first parameter value in order to achieve an enhanced first characteristic, thereby obtaining an enhanced first parameter value” (p39, ‘the fixed codebook excitation gain is increased (adjusted) by the amount of the noise compensation gain ...to compensate for the near-end noise (achieve an enhanced first characteristic)’);

“determining a new index value from a table relating index values to first parameter values [and relating the index values to second parameter values], such that a new first parameter value corresponding to the new index value [and a new second parameter value corresponding to the new index value] substantially match the enhanced first parameter value [and the current

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second parameter value]” (p38-p40, ‘the compensation gain computed...based on the noise level estimate’; p39, ‘the original fixed codebook excitation gain is replaced with the modified fixed codebook excitation gain’, ‘it may be sufficient to extract only the fixed codebook gain table indices (substantially match the enhanced first parameter value)’, ‘for example, in the AMR codec...may operate directly on the fixed codebook gain table indices bits (new index values)...’).

CEZANNE does not **expressly** disclose “determining a current second parameter value from the index further corresponding to a second parameter” and using the second parameter for determining the new index value. However, this feature is well known in the art as evidenced by ERIKSSON who, in the same field of endeavor, discloses ‘noise suppression’ (title), comprising ‘modification of parameters in the coded bit-stream’ (p33-p57) using ‘fixed codebook gain’, ‘gain correction factor (also corresponding to first parameter value)’, ‘gain factor modified’, finding ‘the index of the codeword closest (match) to’ new gain correction factor and overwrite (replace) the original fixed codebook gain correction index’, and teaches that ‘in some coding modes with lower bit-rate they are vector quantized’ and ‘the adaptive codebook gain (second parameter) will also be modified (determined with new value) by the noise suppression’.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to recognize that the ARM method described in 3GPP TS 26.090 inherently uses a jointly quantized vector (corresponding to the index) associating with the correction factor and adaptive codebook gain (second parameter value) for lower bit-rate coding, and to modify CEZANNE by providing modifying the adaptive codebook gain with the first parameter value (such as the correction factor) associated the index for the vector quantization, as suggested by

ERIKSSON, for the purpose (motivation) of improving speech quality for system with transcoder free operation and/or for some coding modes with lower bit-rate (ERIKSSON: p4 and p57).

As per **claim 3** (depending on claim 1), CEZANNE in view of ERIKSSON further discloses “replacing a current value of the index corresponding to at least the first parameter by the determined new index value” (CEZANNE: p39-p40; ERIKSSON: p56)

As per **claim 5** (depending on claim 1), CEZANNE in view of ERIKSSON further discloses “determining the new index value from the table such that a substantial match of the current second parameter value has precedence” (CEZANNE: p39-p40; ERIKSSON: p56-57).

Regarding **claims 7, 9 and 11**, they recite an apparatus. The rejection is based on the same reason described for method claims 1, 3 and 5, because the claims recite the same or similar limitations as claims 1, 3 and 5, respectively.

Regarding **claim 17**, it recites a computer program. As best understood in view of the rejection under 35 USC 112 1<sup>st</sup> (see above), the rejection is based on the same reason described for method claim 1, because the claim recites the same or similar limitations as claim 1.

Regarding **claim 23**, it recites an apparatus. The rejection is based on the same reason described for claim 1, because the claim recites the same or similar limitations as claim 1.

14. Claims 2, 4, 6, 8, 10, 12-16, 20-22 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over CEZANNE in view of ERIKSSON applied to claim 1, and further in view of admitted prior art disclosure (see specification: paragraphs 59-64) hereinafter referenced as ADMISSION.

As per **claim 4** (depending on claim 1), even though CEZANNE in view of ERIKSSON disclose ‘noise compensation gain (background noise parameter value) is computed (determined)...based on the noise level estimate’ and using ‘fixed codebook gain indices’ (CEZANNE: p38 and p40; ERIKSSON: p56), CEZANNE in view of ERIKSSON does not **expressly** disclose the background noise parameter value being an **index** value (current or new). However, the feature is well known in the art as evidenced by ADMISSION who using ‘average background noise information...described in 3GPP TS 26.092...’ and ‘frame energy’ calculation and quantization with ‘index’ (see specification: p59-p64). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify CEZANNE in view of ERIKSSON by providing the background noise level with associated quantization index, as taught by ADMISSION, for the purpose (motivation) of the correct operation of background noise evaluation, noise parameter encoding/decoding and comfort noise generation for the AMR speech codec system, and/or improving/enhancing speech quality for the system with transcoder free operation (CEZANNE: p6; ERIKSSON, p7).

Regarding **claim 2**, the rejection is based on the same reason described for claims 1 and 4, because the claim recites the same or similar limitations as claims 1 and 4.

Regarding **claim 6** (depending on claim 2), the rejection is based on the same reason described for claim 3, because the claims recites the same or similar limitations as claim 3.

Regarding **claims 8 and 12**, they recite an apparatus. The rejection is based on the same reason described for method claims 2 and 6, because the claims recite the same or similar limitations as claims 2 and 6, respectively.

Regarding **claim 10** (depending on claim 7), the rejection is based on the same reason described for claim 4, because the claims recites the same or similar limitations as claim 4.

Regarding **claim 13**, the rejection is based on the same reason described for claims 1 and 4, because the claim recites the same or similar limitations as claims 1 and 4.

Regarding **claim 14**, it recites an apparatus. The rejection is based on the same reason described for claim 13, because the claim recites the same or similar limitations as claim 13.

Regarding **claim 15**, the rejection is based on the same reason described for claims 1 and 4, because the claim recites the same or similar limitations as claims 1 and 4.

Regarding **claim 16**, it recites an apparatus. The rejection is based on the same reason described for claim 15, because the claim recites the same or similar limitations as claim 15.

Regarding **claim 20**, it recites a computer program. As best understood in view of the rejection under 35 USC 112 1<sup>st</sup> (see above), the rejection is based on the same reason described for method claim 2, because the claim recites the same or similar limitations as claim 2.

Regarding **claim 21**, it recites a computer program. As best understood in view of the rejection under 35 USC 112 1<sup>st</sup> (see above), the rejection is based on the same reason described for method claim 13, because the claim recites the same or similar limitations as claim 13.

Regarding **claim 22**, it recites a computer program. As best understood in view of the rejection under 35 USC 112 1<sup>st</sup> (see above), the rejection is based on the same reason described for method claim 15, because the claim recites the same or similar limitations as claim 15.

Regarding **claim 24**, it recites an apparatus. The rejection is based on the same reason described for claim 2, because the claim recites the same or similar limitations as claim 2.

Regarding **claim 25** it recites an apparatus. The rejection is based on the same reason described for claim 13, because the claim recites the same or similar limitations as claim 13.

Regarding **claim 26**, it recites an apparatus. The rejection is based on the same reason described for claim 15, because the claim recites the same or similar limitations as claim 15.

15. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over CEZANNE and CEZANNE applied to claim 17, and further in view of ETTER (US 2005/0071154 A1).

As per **claim 19** (depending on claim 17), as best understood in view of the rejection under 35 USC 112 1<sup>st</sup> (see above), CEZANNE in view of ERIKSSON does not **expressly** disclose "computer program (software) is directed loadable into an internal memory of the computer." However, the feature is well known in the art as evidenced by ETTER who, in the same field of endeavor, discloses 'method and apparatus for estimating noise in speech signals' (title), comprising using partially decoded speech 'to extract both the fixed codebook gain parameter and the adaptive codebook gain parameter' with 'scaling (modifying) factor' (p7), using 'AMR speech codec' (p18), and providing 'hardware capable of executing software', 'read-only memory for storing software', 'random access memory (internal memory that is directly loadable) and non-volatile storage', 'software module software code portions' (p47-p49), which suggests the system has capability of implementing the functionality as claimed. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify CEZANNE in view of ERIKSSON by providing an internal memory (such as RAM) for storing and loading relating software, as taught by ETTER, for the purpose

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(motivation) of executing the various coding/decoding processes by a computer and/or implementing the equivalent functionalities by various means (ETTER, p47 and p50).

### ***Conclusion***

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

17. Please address mail to be delivered by the United States Postal Service (USPS) as follows:

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and 5.2(c)), please address correspondence to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, etc.) as follows:

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qi Han whose telephone numbers is (571) 272-7604. The examiner can normally be reached on Monday through Thursday from 9:00 a.m. to 7:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil, can be reached on (571) 272-7602.

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QH/qh  
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